

**REMARKS**

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Prior to the Final Office Action, claims 1-9 were pending. Through this Reply, claims 10-15 have been added. Therefore, claims 1-15 are presented for examination. Claims 1, 9 and 10 are independent.

**TITLE OF THE INVENTION**

It is alleged that the title of the invention is not descriptive and that a new title is required. *See Final Office Action, item 2.* It is noted that the title of the invention was amended in the previous reply filed on October 15, 2004. It is unclear whether the Examiner is referring to the amended title as still being non-descriptive. Applicant respectfully requests a clarification regarding this objection.

**§ 103 REJECTION – NISHIKAWA, BELUCCI**

Claims 1-6, 8, and 9 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Nishikawa et al. (USP 5,296,945) in view of Belucci et al. (USP 5,913,542). *See Final Office Action, items 3-4.* Applicants respectfully traverse.

For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. See *M.P.E.P. 2142*. One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. See *M.P.E.P. 2142; M.P.E.P. 706.02(j)*. Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, independent claim 1 recites, in part "wherein said automatic correcting device ... abstracts a person area based on the facial area." Independent claim 9 recites a similar feature. For the reasons stated below, Nishikawa and Belucci, individually or in combination, cannot be relied upon to teach or suggest at least this feature.

First, regarding Nishikawa, the Examiner readily admits that Nishikawa cannot be relied upon to teach or suggest detecting a person area within an image data. See *Final Office Action*, page 3, lines 5-6.

However, the Examiner alleges that Belucci teaches separating the subject area from the background area and resizing the size of the image separated of the subject so as to fit the area required for the photo of the identification card. See *Office Action*, page 2, item 2, lines 5-8. The Examiner specifically relied upon column 5, lines 15-49 of Belucci for this allegation.

However, even if the Examiner's allegation is to be true, the above-recited feature cannot be met by Belucci. It is noted that Belucci merely discloses that the backdrop may be separated from the subject. *See Belucci column 5, lines 18-20*. There is no disclosure on exactly what constitutes "a subject" of the photograph. The closest definition of the subject appears to be the photographic portrait 12 as seen in Figure 1A. However, it is noted that the photographic portrait includes the neck and the collar area of a person as well as the face of the person. Therefore, Belucci cannot be relied upon to teach or suggest the above recited feature.

Indeed, when combined with Nishikawa as suggested by the Examiner, the combination teaches away from the recited feature. More specifically, Nishikawa states that the photo image includes "an upper-half body of the person 22 including his face." *See Nishikawa column 4, lines 16-17*. Thus, if Nishikawa and Belucci are combined as suggested, one of ordinary skill would realize that the subject of the image would include parts of the body other than the face. And, according to the Examiner, Belucci teaches that the subject area is separated and resized. In other words, the combination teaches resizing the image of the subject that includes parts of the body other than the face. Thus, it is clear that Nishikawa and Belucci individually or in combination cannot be relied upon to teach or suggest the feature of abstracting a person area based

on a facial area. Therefore, independent claims 1 and 9 are distinguishable over the combination of Nishikawa and Belucci.

Claims 2-8 depend from independent claim 1. Therefore, for at least the reasons stated above with respect to independent claim 1, the dependent claims are also distinguishable over the combination of Nishikawa and Belucci.

Applicant respectfully requests that the rejection of claims 1-6, 8 and 9 based on Nishikawa and Belucci be withdrawn.

§ 103 REJECTION – NISHIKAWA, BELUCCI, O'BRILL

Claim 7 stands rejected under 35 USC 103(a) as allegedly being unpatentable over Nishikawa in view of Belucci and in further view of O'Brill (USP 5,937,081). *See Final Office Action, item 5.* Applicant respectfully traverses. It is noted that claim 7 depends from independent claim 1 and it has been shown above that claim 1 is distinguishable over the combination of Nishikawa and Belucci. O'Brill has not been and indeed, cannot be relied upon to correct for at least the above-noted deficiencies of Nishikawa and Belucci.

It is noted that O'Brill discloses that a user selected image 23 as having the subject image 24 which includes a head image and a body image 28. *See O'Brill column 5, lines 1-7.* However, it is noted that O'Brill is entirely silent regarding abstracting the person area based on the head image. Indeed, since the entirety of the subject image is photographed, there would be no need to

abstract the person area based on the facial area. Thus, it is clear that O'Brill cannot be relied upon to correct for the above-noted deficiencies of Nishikawa and Belucci. Therefore, independent claim 1 is distinguishable over the combination of Nishikawa, Belucci and O'Brill. For at least due to the dependency thereon, claim 7 is also distinguishable over the combination of Nishikawa, Belucci and O'Brill.

Applicant respectfully requests that the rejection of claim 7 based on Nishikawa, Belucci and O'Brill be withdrawn.

#### **NEW CLAIMS**

Claims 9-15 have been added through this Reply. All new claims are believed to be distinguishable over the cited references, individually or in any combination. Applicant respectfully requests that the new claims be allowed.

#### **CONCLUSION**

All objections and rejections raised in the Final Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), the Applicant respectfully petitions for a one (1) month extension of time for filing a response in connection with the present application and the required fee of \$120 is being filed concurrently herewith.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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